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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,975	11/08/2000	Peter Paul Frans Reusens	Q61361	1060

7590 11/24/2004

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EXAMINER

SWERDLOW, DANIEL

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/707,975

Applicant(s)

REUSENS, PETER PAUL FRANS

Examiner

Daniel Swerdlow

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: The reply is noncompliant. See attached.

Response to Amendment

1. The reply filed on 7 October 2004 is noncompliant because: On page 6 of the response, Claim 22 is shown in a marked-up version with changes. However, the status identifier for the claim is (*Previously Presented*).

Amendments filed on or after July 30, 2003, must be submitted in compliance with revised 37 CFR 1.121. An amendment submitted on or after July 30, 2003 as part of a reply after the close of prosecution (e.g., as a reply under 37 CFR 1.116) that is not compliant with the Revised Amendment Practice will not act to toll the outstanding time period. See 37 CFR 1.135(c). A notice (e.g., an advisory action) may be mailed by the Office specifying which section(s) of the amendment was not in compliance with the Revised Amendment Practice, but no new time period will be given to provide a compliant section.

2. In order to advance prosecution, examiner responds assuming the status identifier is intended as (*Currently Amended*).

3. Even if submitted in a compliant reply, the amendment would not be entered because the amendment makes changes to independent claims 5, 12 and 22 that require further search and consideration. In an apparent attempt to distinguish the claims from the cited prior art, applicant has amended the claims regarding the temporal relationship between the spectrum of the ringing indication signal and the frequency band used for digital data signals. Because of this, further search and consideration would be required.

Response to Arguments

4. Applicant makes arguments based on the proposed amendments to the claims. Since these amendments are not entered for reasons stated above, these arguments are moot at this time.

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5. Applicant's arguments filed 7 October 2004 have been fully considered but they are not persuasive.

6. Regarding Claim 5, applicant alleges in the first full paragraph on page 12 of the response that there is no motivation to combine because "[t]he AAPA, Freimanis and Balachandran et al. lack any teaching about the desirability of a ringing indication signal that has a voltage amplitude less than 30 V RMS and lacks detectable components in the frequency band for digital data signals at a time when a ringing signal is received". Showing motivation to combine references does not require teaching of the desirability of claim elements. Rather it requires that one skilled in the art would have motivation to apply a teaching in one reference to what is disclosed in a different reference. This motivation is detailed in the rejections made in the prior Office action. In addition, the claim limitation "lacks detectable components in the frequency band for digital data signals at a time when a ringing signal is received" is from the unentered amendment.

7. Applicant makes similar arguments regarding independent claims 12 and 22 as well as claims depending therefrom and from Claim 5. These arguments are not persuasive for the reasons stated above apropos of Claim 5.

Conclusion

Currently, Claims 2 through 6, 9 through 13, 16, 18 through 23 and 25 through 27 stand rejected. Claims 7, 14, 15 and 24 are objected to as depending from a rejected claim. Claim 28 is allowable. Claims 1, 8 and 17 have been cancelled.

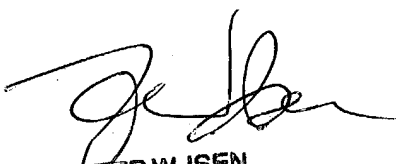
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 703-305-4088. The examiner can normally be reached on Monday through Friday between 8:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forrester Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER